a very important factor — but Lord Alverstone said, "It is obvious that if it is proved that the waiter is buying for the customer, the charge of selling liquor without a licence, cannot be supported; nothing could be simpler". This dictum was proved in *Jones v. Mighall* (the Ancient Order of Buffaloes Case), *supra.*

Boyle v. Smith, supra, was a case of a drayman employed to deliver beer only who, contrary to specific instructions, sold some beer. On a case stated, the dismissal of the charge against the owner by the Magistrate was upheld and confirmed. Lord Alverstone stated in the judgment as follows: "In my opinion, if a servant having no authority to sell at all, chooses to make a sale, *he,* not being a licensed person, is liable to the penalties under section 3. It seems to me that the fact that the drayman had no authority at all to do that which he did and was expressly forbidden to do, there was not a sale by the master contrary to section 3."

Furby v. Hoey, supra, is not a satisfactory case and the facts were confused but it did confirm that the sale took place at the licensed premises and not at the night club. Although the Court upheld the dismissal of the charge, it stated that other licensing offences, with which the accused had not been charged, had been committed.

Other non-licensing cases are not, in my opinion, particularly helpful, although in *Coppen v. Moore, supra* (the Merchandise Marks and Ham case) it was held that a *prima facie* case could be rebutted if the master proved that he had acted innocently and had taken all reasonable precautions against the commission of the offence but which the Magistrates had found he had *not* done.

In the present case both the master and the servant have been separately convicted and it is necessary to consider their cases separately.

As regard No. 2, the point is, was there a sale by him of the beer to the Revenue Officers at the Rest House, on the facts as stated above. There was, admittedly, a sale of the beer at the Chop, but to whom? In my opinion, No. 2 accused was acting in pursuance of specific instructions from the Revenue Officers to go outside and purchase beer for them and he did so at the Chop. In doing so he was acting as their agent and the sale at the Chop was to them. He delivered the beer to them as their agent, in accordance with their instructions, and, in my opinion, it is quite immaterial as to who opened the bottle.

Neither have I to decide the hypothetical question of civil liability, which might have arisen if the bottle had been broken and the beer lost in the course of being brought to, and served in, the Rest House.

As regards the fact that the Revenue Officer did not first hand the money to No. 2 accused with which to purchase the beer, this is also, in my opinion, irrelevant. It is not necessary for the principal to provide the agent with the necessary funds with which to complete a purchase and so effect a valid sale between a third party and the principal. Neither does the remuneration of the agent for carrying out his principal's instructions affect the question of the validity or otherwise of the purchase and sale. I hold, therefore, that the sale of the beer at the Chop was to the Revenue Officers and that there was not, in law, a re-sale of the beer at the Rest House to the Revenue Officers by the agent (No. 2 accused). This also disposes of the case against the proprietor, No. 1 accused, and it is unnecessary for me to go into the question of his possible vicarious liability under the amended section 87.

Nor is it necessary to consider the question of evidenct by accomplices, which undoubtedly the Revenue Officers were; in fact one might almost describe them as *agents provocateur* in the commission of the alleged offence.

For these reasons the appeals are allowed and the convictions quashed.

Appeals allowed.

HYDER v. REX.

[App. Crim. Juris. (Gordon-Smith, Ag. C.J.)
February 23, 1949]

[Singapore — Magistrate's Appeal No. 202 of 1948]

Criminal Procedure — Sentence — Whether sentences should be concurrent or consecutive.

In this case the learned District Judge convicted the appellant on two charges and sentenced him to six months' rigorous imprisonment on each charge. On the record the sentences were consecutive but in his grounds of judgment the learned District Judge stated that he ordered the two sentences to run concurrently.

Held, that sentences should not be ordered to run consecutively unless there were some good grounds for so doing.

MAGISTRATE'S APPEAL.

C. H. Koh for the appellant.

A. V. Winslow (D.P.P.) for the Crown.

Gordon-Smith, Ag. C.J. : — At the hearing of this appeal on the 11th February I had no hesitation in dismissing the appeal but I was somewhat concerned about the sentence.

There were two distinct charges in respect of the same date and, more or less the same evidence but in respect of two separate and distinct individuals. In his reasons for judgment the learned District Judge states that he ordered the two sentences of six months' rigorous imprisonment to run "concurrently" whereas on the record itself it states that they were consecutive.

It is not usual to order sentences to run consecutively unless there are some good grounds for so doing and I was in some quandary. Taking into consideration the fact that the accused would lose his job and although I thought that he was getting off lightly with six months' rigorous imprisonment I thought it safer to order the sentences to be concurrent.

Appeal dismissed.

Re RUN RUN SHAW AND RUNME SHAW, *Ex parte* REPUBLIC PICTURES INTERNATIONAL CORPORATION.

[Orig. Civ. Juris. (Gordon-Smith, J.) Feb. 28, 1949]

[Singapore — Originating Motion No. 4 of 1949]

Courts Ordinance, s. 8(1) — Rules of the Supreme Court, O. 42. r. 1 — Application for leave to issue writ of attachment for contempt of Court — Alleged obstruction in prevention of civil suit by proceedings in a foreign Court.

In this case an application was made for leave to issue a writ of attachment. It was alleged that the respondents by instituting proceedings in New York asking for inter alia an injunction to restrain the applicants from proceeding with an action in Singapore against the respondents for damages for alleged breach of contract and for an injunction, wherein the applicants had applied also for relief in respect of the alleged breach of contract, had obstructed or attempted to obstruct or threatened the applicants in such suit in Singapore, and that this constituted a contempt of this Court's jurisdiction.

Held, that on the facts there was nothing to debar the respondents from instituting the suit and making the application to the New York Court for an injunction in the exercise of their undoubted legal rights to do so and therefore even though their action might embarrass the applicants, it did not constitute a contempt of Court. Application dismissed with costs.

Cases referred to:—

(1) *Williams v. Lyons* 88 E.R. 138.
(2) *Smith v. Lakeman* (1856), 26 L.J. Ch. 305.
(3) *Bromilow v. Phillips* (1891), 40 W.R. 220, 8 T.L.R. 168.
(4) *In re Mulock* 16A E.R. 1407.
(5) *Smith v. Smith* (1889), 59 L.J.P. 15.
(6) *Webster v. Bakewell Rural District Council* (1916) 1 Ch. 300.
(7) *Bushby v. Munday* 56 E.R. 908.
(8) *Armstrong v. Armstrong* (1892) P. 98.
(9) *Hyman v. Helm* (1883), 24 Ch. D. 531 at p. 537.
(10) *In re Connolly Bros. Ltd.* (1911) 1 Ch. 731 at p. 745.
(11) *Heilman v. Falkenstein* (1917), 33 T.L.R. 385.
(12) *Cohen v. Rothfield* (1919) 1 K.B. 410 at pp. 413/4.
(13) *In re New Gold Coast Exploration Company* (1901) 1 Ch. 860.
(14) *Plating Co. v. Farquharson* (1881), 17 Ch. D. 49.
(15) *Hunt v. Clarke* (1889), 59 L.J.Q.B. 490.
(16) *In re Septimus Parsonage* (1901) 2 Ch. 424.

MOTION.

Dr. C. H. Withers-Payne for the applicants.

K. A. Seth for the respondents.

The facts and arguments appear sufficiently from the judgment.

Cur. Adv. Vult.

Gordon-Smith, J. : — This is a motion by Dr. Withers-Payne, counsel for Republic Pictures International Corporation for the necessary leave under Order 42 rule 1 to issue a writ of attachment against the respondents, Run Run Shaw and Runme Shaw, in respect of alleged contempt of Court by obstructing or attempting to obstruct or threatening by proceedings in a foreign Court the applicants in the prosecution and conduct of Civil Suit 686 of 1948 instituted by them in this Court against the respondents trading as Eastern Film Agency.

It is necessary, therefore, to set out the details of these other proceedings with relevant dates. Throughout this judgment I will refer to the applicants as the plaintiffs and the respondents as the defendants, as in fact they are, in Civil Suit 686 of 1948.

On the 6th November, 1948, the plaintiffs issued a writ of summons against the defendants claiming (1) damages for breach of a contract in writing dated the 22nd January, 1947; (2) an injunction restraining the defendants from exhibiting, distributing etc. films of the plaintiffs; (3) specific performance of clauses 9 and 13 of the said agreement, and other minor reliefs.

On the 13th November, 1948, after various other steps had been taken in the suit, a motion by the plaintiffs was made for an immediate injunction in terms of the claim endorsed on the writ Mr. Seth